

Notice of Allowability

Application No.

09/780,812

Examiner

Mark Fadok

Applicant(s)

EHRlich ET AL.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/12/2004.
2. ☐ The allowed claim(s) is/are 1-5,7-13 and 15-27.
3. ☒ The drawings filed on 10 February 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/12/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jeffrey A. Smith
Primary Examiner

DETAILED ACTION

Response to Amendment

The examiner is receipt of applicant's response to office action mailed 3/29/2004, which was received 6/12/2004. Acknowledgement is made to the amendment to claims 1-3,7 -13,15-17 and 19-25, the cancellation of claims 6 and 14 and the addition of new claims 26 and 27. The applicant's amendment and remarks have been carefully considered and were found to be persuasive, therefore the following reasons for allowance are provided.

EXAMINER'S AMENDMENT

The application has been amended as follows:

Change Title – delete title, insert--A System, Method and Computer Program Product For On-line Real-Time Price Comparison and Adjustment Within A Detachable Virtual Shopping Cart--

Allowable Subject Matter

Claims 1-5,7-13,15-27 are allowed.

The following is an Examiner's statement of reasons for allowance for all independent claims 1,11 and 22.

The present invention is directed to a system, method and computer program product for utilizing a detachable virtual shopping cart, which is created at a host merchant's site and contains information about a host merchant's item. The shopping cart automatically preparing a counter offer to a rival merchant's underbidding of the

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host merchant's item so that when the shopper arrives back at the host merchant's site the shopper then may acquire the item at the host merchant's counter offer.

Each of the independent claims 1, 11 and 22 identifies the uniquely distinct features as follows:

Claim 1 – a shopping cart manager that creates the virtual shopping cart and that detaches the virtual shopping cart prior to, or upon a shopper leaving the host merchant to a different merchant's site;

a validation module that automatically prepares a counter offer relative to an underbid offer from a different merchant's site; and

the shopping cart manager automatically and selectively updates the item information in the virtual shopping cart to reflect the host merchant's counter offer, so that when the shopper returns to the host merchant's site for checkout, the shopper acquires the item at the host merchant's counter offer.

Claim 11 – automatically initiating a shopping session by creating the virtual shopping cart and by detaching the virtual shopping cart prior to, or upon a shopper leaving the host merchant to a rival merchant's site;

the host merchant automatically preparing a counter offer relative to an underbid offer from a rival merchant and the host merchant automatically and

selectively updating the item information in the virtual shopping cart to reflect the host merchant's counter offer, so that when the shopper returns to the host merchant's site for checkout, the shopper acquires the item at the host merchant's counter offer.

Claim 22 - – a first set of instruction codes for creating the virtual shopping cart and for detaching the virtual shopping cart prior to, or upon a shopper leaving the host merchant to a different merchant's site;

a third set of instruction codes for automatically preparing a counter offer relative to an underbid offer from a different merchant's site; and

a fourth set of instruction codes for automatically and selectively updates the item information in the virtual shopping cart to reflect the host merchant's counter offer, so that when the shopper returns to the host merchant's site for checkout, the shopper acquires the item at the host merchant's counter offer.

Relevant Art

Discussion of most relevant art:

US Patents and PG-PUB

(i) US Patent 5,966,697 to Fergerson et al teaches a detachable shopping cart that detaches and goes from site to site carrying the prior merchant's data, but fails to teach automatically updating a previous offer after a rival offer is presented to the

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shopping cart system. Therefore, Fergerson fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(ii) US Patent 6,076,071 to Freeny, Jr. teaches an automated product and pricing system that is used to gather competitors price information and then make changes to a merchant's virtual and physical store prices. Freeny, however, fails to anticipate or render the application's above-mentioned limitation(s) obvious.

Foreign Patent Documents

(III) WO 99/66438 to Walker et al. teaches applying a subsidy to purchased product over the Internet. Walker, however, fails to anticipate or render the application's above-mentioned limitation(s) obvious.

Non-Patent Literature

(iv) Mack teaches a system that monitors the purchases of a user as they browse and offers the user an alternative to the purchased item from a selection of participating merchant's which the user may compare and accept or reject, however fails to anticipate or render the application's above-mentioned limitation(s) obvious, because the changes are not made automatically to a host merchant's offer.

Any comments considered necessary by the applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled

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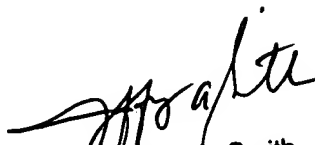
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.



Mark Fadok

Patent Examiner



Jeffrey A. Smith
Primary Examiner